

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X	
CHEVRON CORPORATION,	:
	:
Plaintiff,	:
	:
-against-	:
	:
STEVEN R. DONZIGER, et al.,	:
	:
Defendants.	:
	:
----- X	

Case No. 11 Civ. 0691 (LAK)

**CHEVRON CORPORATION'S
MEMORANDUM OF LAW IN SUPPORT OF MOTION IN LIMINE #2
TO EXCLUDE IRRELEVANT AND PREJUDICIAL STATEMENTS
REGARDING CHEVRON'S PURPORTED LITIGATION CONDUCT**

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Rules

Fed. R. Evid. 401	2, 4, 9
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RELIEF REQUESTED

Throughout this action, Defendants have sought to divert attention from their own tortious conduct by levying baseless and irrelevant accusations at Chevron. Defendants' "unclean hands" arguments are, at most, relevant only to Chevron's entitlement to equitable relief, which should be tried in a separate bench trial to avoid prejudice to Chevron. Nonetheless, Chevron anticipates that during the trial Defendants will try to make arguments, references, and implications that are irrelevant to the legal claims being tried and designed only to confuse the jury or to create a false moral equivalence between the parties. Chevron therefore moves the Court to enter an order *in limine* striking and precluding the introduction of the documents identified on the attached Appendix A as irrelevant during the jury trial, as well as precluding Defendants from offering to the jury evidence, arguments, or questions regarding:

- Chevron's purported conduct in the Lago Agrio Litigation, including the cancellation and subsequent rescheduling of the Guanta inspection, Chevron's purported "sting" operation against an Ecuadorian judge, Chevron's use of a purported "sham laboratory" and pre-inspection protocol, Chevron's purported "procedural misconduct" in filing motions in the Lago Agrio Litigation, Chevron's purported *ex parte* contacts with Ecuadorian judges and court experts, any "harassment" supposedly suffered by Defendants or their co-conspirators, and any argument that their actions were justified by virtue of Chevron's alleged misconduct;
- Chevron's conduct in this and other litigation in the United States, including Chevron's purported misuse of Section 1782 to obtain discovery for use in the Lago Agrio Litigation, Chevron's subpoenas to email providers seeking information about Defendants and their co-conspirators, and Chevron's surveillance of Defendants and their co-conspirators; and
- Alleged promises and representations made by Texaco and/or TexPet in the *Aguinda* litigation.

LEGAL STANDARD

"Although the Federal Rules of Evidence do not explicitly authorize *in limine* rulings, the practice has developed pursuant to the district court's inherent authority to manage the course of trials." *Luce v. United States*, 469 U.S. 38, 41 n.4, 105 S. Ct. 460, 463 n.4 (1984); *see also Palmieri v. Defaria*, 88 F.3d 136, 141 (2d Cir. 1996) (approving the practice). The district judge

“ha[s] discretion in deciding whether a pretrial ruling on evidence may be made in advance of trial.” *United States v. Valencia*, 826 F.2d 169, 172 (2d Cir. 1987). This authority includes prohibiting irrelevant and prejudicial arguments or references at trial. *See, e.g., In re WorldCom, Inc. Sec. Litig.*, No. 02 Civ. 3288DLC, 2005 WL 578109, at *4 (S.D.N.Y. Mar. 4, 2005).

Evidence is relevant if it has “any tendency to make a fact more or less probable than it would be without the evidence.” Fed. R. Evid. 401. “Irrelevant evidence is not admissible.” Fed. R. Evid. 402. “The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of . . . unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.” Fed. R. Evid. 403. “‘Unfair prejudice’ within its context means an undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one.” Fed. R. Evid. 403 advisory committee’s note. “In the balancing of probative value against unfair prejudice required by Rule 403, the trial judge has wide discretion.” *U.S. v. Dwyer*, 539 F.2d 924, 927 (2d Cir. 1976).

ARGUMENT

I. This Court Should Prohibit Defendants From Arguing That Chevron Committed Misconduct in the Lago Agrio Litigation

Defendants have regularly alleged that Chevron committed misconduct in the Lago Agrio Litigation, and have asserted the affirmative defenses of unclean hands, *in pari delicto*, and fraud.¹ Dkt. 307 (Donziger’s answer), defense 3; Dkt. 350 (LAPs’ amended answer), defenses 28, 30, 31. These allegations are relevant only to Chevron’s entitlement to equitable relief, which should be determined by this Court and not the jury. Chevron’s motion for summary judgment as to these (and other) defenses is currently pending, and Chevron is concurrently

¹ In the Count 9 Action, this Court dismissed the *in pari delicto* and fraud defenses, and substantially narrowed the defense of unclean hands. *Chevron Corp. v. Salazar*, No. 1:11-cv-03718, Dkt. 229 (S.D.N.Y. Aug. 17, 2011).

moving to bifurcate the trial and consider these defenses in a bench proceeding after a jury trial on liability and damages. While resolution of these motions will determine if and when these defenses are heard, Chevron moves here to limit the presentation of related material and argument to the jury, or, should the defenses be dismissed, exclude that material altogether. As the Court indicated that it may not rule on Chevron's summary judgment motion until "before the start of the defendants' case in chief" (Dkt. 1362 at 14), it is appropriate to determine prior to trial whether Defendants should be permitted to make such arguments in their opening statement or to question Chevron's witnesses on such topics. If such arguments are permitted prior to the Court's grant of summary judgment on these defenses, the jury will already have been impermissibly prejudiced.

A. Allegations Relevant Only to Equitable Defenses Should Not Be Heard by the Jury

As Chevron sets forth in its Motion to Bifurcate Trial, evidence and arguments that are relevant only to equitable defenses should not be presented to the jury because the jury will not determine whether Chevron is entitled to equitable relief. Any arguments and evidence by Defendants regarding Chevron's supposed conduct during the Lago Agrio Litigation will be of no relevance to Chevron's legal claims, but at most only to whether Chevron should be granted equitable relief. Dkt. 348. *See Gidatex, S.r.L. v. Campaniello Imports, Ltd.*, 82 F. Supp. 2d 126, 128 (S.D.N.Y. 1999) (bifurcating unclean hands and other equitable defenses for bench trial); *Patsy's Italian Restaurant v. Banas*, 575 F. Supp. 2d 427, 440 (E.D.N.Y. 2008) (same); *see also Chevron Corp v. Salazar*, No. 11 Civ. 3718(LAK), 2011 WL 3628843, at *10 n.75 (S.D.N.Y. Aug. 17, 2011) ("The Court leaves for later determination the question whether, assuming that any party is entitled to a jury trial of issues of fact on the declaratory judgment claim, the unclean hands issues should be tried separately to the court alone."). Introduction of irrelevant material

would confuse the jury, improperly invite the jury to consider whether Chevron's conduct justified Defendants' misdeeds, and would be prejudicial.

B. Defendants' Unclean Hands Allegations Are Irrelevant to Any Legal Issue

Chevron's allegations in this case concern conduct by the Defendants and their co-conspirators. Among other things, Defendants falsified reports filed with the Lago Agrio Court under the name of Dr. Charles Calmbacher, improperly coerced the Lago Agrio Court to cancel judicial inspections and appoint Richard Cabrera as the global expert, paid Cabrera at least tens of thousands of dollars from their "secret account," ghostwrote his report, and then bribed the judge to allow them to write the Lago Agrio Judgment. Defendants' allegations of Chevron's purported misconduct would not make the existence of any fact that is of consequence to the determination of the action "more or less probable." Fed. R. Evid. 401.

Defendants exhibit list confirms that they intend to continue their attacks on Chevron (*see* Appendix A), but these false allegations are put forward only to muddy the waters. Even if they were accurate, none are relevant to Chevron's legal claims.

- 1993 *Aguinda* Case and Related Contacts with Ecuadorian Officials Regarding *Aguinda*: Defendants do not (and cannot) argue that Chevron's purported attempts to lobby the Ecuadorian government, Dkt. 732 at 104-05, had any actual effect on the Lago Agrio Litigation, or that they suffered any harm from these actions. Chevron's efforts to obtain a *forum non conveniens* dismissal of *Aguinda* "do not have the requisite 'immediate and necessary relation to the equity that plaintiff seeks . . .'" and "many of those allegations are contradicted by U.S. court record or otherwise are demonstrably false." *Salazar*, 2011 WL 3628843, at *9 (quoting *Specialty Minerals, Inc. v. Pluess-Staufer AG*, 395 F. Supp. 2d 109, 112 (S.D.N.Y. 2005)).
- Jurisdictional Arguments to the Lago Agrio Court: Defendants accuse Chevron of dishonesty in connection with the *forum non conveniens* dismissal of *Aguinda*, because Chevron later argued that the Ecuadorian court lacked jurisdiction over Chevron, and because they claim Chevron cannot complain now about the Ecuadorian judiciary it supposedly chose to hear their lawsuit. Dkt. 732 at 106.² But Defendants suffered no harm (the Ecuadorian court ig-

² Neither Texaco nor Chevron ever conceded the Ecuadorian court's jurisdiction over Chevron. *See Salazar*, 2011 WL 3628843, at *9 and n.68. Defendants do not and cannot claim that by acceding to the Ecuadorian court's per-
[Footnote continued on next page]

nored Chevron's personal jurisdiction argument for a decade and then rejected it), and Chevron's motion filed in Ecuador has no bearing on who wrote the \$18 billion judgment or whether Cabrera was an "independent" court expert.

- The Cancellation of the Guanta Inspection: Defendants accuse Chevron of colluding with the Ecuadorian military to cancel a judicial inspection held at the Guanta station. Dkt. 350 (LAPs' amended answer) at 94-97; Dkt. 643 (Donziger's counterclaims), ¶¶ 47-52. But the inspection was requested by Chevron, and "[t]here is no allegation that the proposed site inspection cancellation . . . had any bearing at all on the result in Ecuador or, for that matter, that the site inspection did not later take place. . . ." *Salazar*, 2011 WL 3628843, at *10.
- The Purported "Sting" Operation: After a judge presiding over the Ecuadorian Litigation was videotaped stating that he had prejudged the case in Defendants' favor and soliciting bribes from environmental contractors in exchange for remediation contracts, Defendants sought to blame Chevron through false accusations about a corporate "sting" operation. Dkt. 732 at 109-113. Chevron's claims against Defendants do not rest on this bribery scandal, and Defendants' allegations are not relevant to any of their legal defenses.
- Chevron's Purported "Sham Laboratory" and Pre-Inspection Protocol: Defendants suggest that a laboratory that analyzed certain samples was actually controlled by Chevron.³ These false allegations are irrelevant, as Chevron's claims do not rest on the relative independence of one of the laboratories it used to test samples for contamination. Defendants also allege that Chevron pre-inspected locations to steer inspectors to test at clean sites, when, in reality, both sides conducted pre-inspections and Chevron's testing was necessary to determine the perimeter of any contaminated area—to find where any contamination ends and clean soil begins. Dkts. 366-6; 370 ¶¶ 17-30. "[T]his Court repeatedly has held that 'the work of Chevron's testifying experts in [the Lago Agrio Litigation] concerning the underlying environmental claims' is 'not relevant.'" Dkt. 1276 at 9 (quoting Dkts. 1208 at 1, and Dkt. 1130).
- Chevron's Motions and Discovery Practice in the Lago Agrio Litigation: Defendants accuse Chevron of filing too many motions requesting similar relief, purportedly threatening a judge in court filings, delaying the inspection process, and delaying payments to court-appointed experts for pretextual reasons. Dkt. 732 at 113-16. None of these issues is relevant to the claims in this litigation.⁴ While Defendants allege that Chevron's conduct violated Ecuado-

[Footnote continued from previous page]

sonal jurisdiction over Texaco, Texaco or Chevron agreed to submit itself to the fraudulent manipulation of that court by Defendants which subsequently transpired.

³ Defendants' allegations are based on a vague and confusing hearsay statement by Diego Borja, a former Chevron contractor, which Defendants' counsel described as "bombast from a trash-talker being prodded into making increasingly grandiose claims." Dkt. 356-10 at 131-32 (Ex. AU). Defendants' allegations are without merit. *See id.* (Borja's recorded conversations "do not discredit Chevron itself, and in fact corroborate them in a couple important respects").

⁴ These allegations are not even relevant to equitable defenses, as "the allegation of the filing of too many motions, of allegedly baseless motions, of discovery delay, and the like in the Ecuadorian case [do not] remotely approach[] a sufficient claim of unclean hands." *Salazar*, 2011 WL 3628843, at *10 n.69.

rian law, none of Defendants' three Ecuadorian law expert witnesses have even opined on whether Chevron's conduct was improper. Dkt. 154-6; Dkts. 918-17 – 918-18; Dkt. 918-27.

- Chevron's Ex Parte Contacts with Judges and Experts: The parties' experts agree that certain *ex parte* contacts with Ecuadorian judges and court-appointed experts are permissible. Dkt. 154-5 (Albán affidavit), ¶¶ 7, 9, 12, 17, 19; Dkt. 154-6 (Simon affidavit), ¶ 4. The relevant issue in this case is whether Defendants' bribes, threats, ghostwriting of expert reports, and ghostwriting of judicial opinions are permissible. Defendants have not alleged that Chevron's *ex parte* contacts with judges (which involved ministerial items such as scheduling, Dkt. 370-9 (Ex. 1231) at 85:24-87:2) and experts (which were openly disclosed to the Lago Agrio Court, *see* Dkt. 732 at 102-03) were improper, but have merely attempted to draw a false equivalence between Chevron's permissible actions and their own malfeasance. Chevron's contacts are irrelevant to any legal issue in this case.
- Purported Harassment of LAPs' Allies and Cabrera: Defendants imply, without any evidence, that Chevron was behind purported "death threats, robberies, and home invasions" suffered by the LAPs' "representatives." Dkt. 732 at 109; *see also* Dkt. 283 ¶¶ 260-65 (false allegations that Chevron murdered Pablo Fajardo's brother); Dkt. 400-3 (Ex. 2035) (Cabrera alleging harassment to Lago Agrio Court). Defendants have never put forward any evidence that Chevron was responsible for any such actions—and it was not. *See* Dkt. 356-9 (Exhibit D) (2011.01.18 Donziger Dep.) at 3125:3-8 (Donziger testifying that his only evidence of any threat to Cabrera was the letter Cabrera submitted to the court); Dkt. 400-16 (Ex. 2105) ¶¶ 3, 9(c)(iii), Ex. F (2011.06.30 Expert Report of Gerald McMenamin concluding Fajardo drafted the letter from Cabrera regarding alleged threats); Dkt. 400-3 (Ex. 2036) (2007.12.17 email from Fajardo to Donziger attaching draft of the letter from Cabrera alleging threats); Dkt. 400-3 (Ex. 2037) (draft of Cabrera threat letter sent by Fajardo to Donziger with the metadata showing the author as "Pablo" and that the document was last modified six days before the threat letter was filed in Cabrera's name).
- Chevron's Purported Breach of Ecuadorian Law By "Transferring" Judge Guerra to the U.S.: Defendants' expert Raul Rosero Rivas concludes (based on incorrect facts and assumptions) that Chevron is an accessory for any crimes committed by Judge Guerra, because it aided his travel to the United States. While there are many reasons to exclude Rosero's opinion, as explained in Chevron's concurrently filed motion in limine, the argument itself is irrelevant. Even if Chevron's actions in 2012 and 2013 to assist Guerra in seeking asylum were improper, which they were not, they are irrelevant as to whether Defendants bribed experts and judges and then ghostwrote their opinions.

C. Defendants Should Be Prohibited From Arguing Their Actions Were Justified by Chevron's Alleged Misconduct

Chevron anticipates that Defendants will argue they were required to undertake their improper actions as a result of Chevron's purported misconduct. This has been a constant refrain

from Donziger.⁵ Defendants cannot claim that their bribery and intimidation of judges was justified by a need to reach the right result. “Judicial action, whether just or unjust, right or wrong, is not for sale.” *United States v. Manton*, 107 F.2d 834, 846 (2d Cir. 1939) (“[I]f the rule shall ever be accepted that the correctness of judicial action taken for a price removes the stain of corruption and exonerates the judge, the event will mark the first step toward the abandonment of that imperative requisite of even-handed justice.”).

The Second Circuit considered a similar issue where a defendant claimed that “he should not be found guilty of bribery if he paid money to [a food inspector] solely to induce him to perform his job faithfully.” *United States v. Alfisi*, 308 F.3d 144, 150 (2d Cir. 2002). The court found that “[i]t cannot be seriously argued” that such payments were not made with a “corrupt intent,” and noted that “if a party to litigation were to pay a judge money in exchange for a favorable decision, that conduct would-and should-constitute bribery, even if a trier of fact might conclude *ex post* that the judgment was on the merits legally proper.” *Id.* at 151. As a result, a motion *in limine* is appropriate to prohibit any argument that such misconduct is justified. *United States v. Botti*, 2010 WL 745043, at *8 (D. Conn. 2010) (prohibiting testimony regarding defendant’s entitlement to benefit obtained through bribery).

Furthermore, this is but a variant on an equitable unclean hands defense which, as this Court has held, applies only to Chevron’s request for an injunction. Dkt. 348. As an equitable defense, it should not be presented to the jury. *See Patsy’s Italian Rest.*, 575 F. Supp. at 440.

II. This Court Should Prohibit Defendants From Arguing That Chevron Committed Misconduct in This or Other Related Litigation in the United States

Defendants have contended that Chevron’s conduct in Section 1782 actions and this liti-

⁵ See Dkt. 6-2 at CRS-052-02 (“[W]e’re gonna confront the judge, who we believe is paid by Texaco; we believe he is corrupt . . . And, you know, they’re playing dirty; we’re honest, they’re dirty. They play dirty, we have to occasionally use . . . pressure tactics to neutralize their corruption.”).

gation was improper. For example, Defendants contend that Chevron committed “fraud” by seeking evidence of Defendants’ ghostwriting of the Cabrera Report in its Section 1782 actions, Dkt. 732 at 100-03, subpoenaing electronic data, *see, e.g.*, The Chevron Pit, “Chevron: The NSA of the Corporate World?”⁶; *Chevron Corp. v. Donziger, et al.*, Case No. 1:12-MC-65 LAK/CFH, Dkt. 50 (N.D.N.Y. Jun 25, 2013) (denying motion to quash), and by allegedly surveilling Donziger (Dkt. 1276; Dkt. 1321).

If Defendants disagree with rulings made in this or other cases granting Chevron’s applications or motions or dismissing Donziger’s counterclaims, they are free to appeal; they are collaterally estopped from relitigating them to the jury. This Court’s rulings in this case are law of the case, and “should continue to govern the same issues in subsequent stages of the same case.” *Christianson v. Colt Industries Operating Corp.*, 486 U.S. 800, 815-16, 108 S. Ct. 2166, 2177 (1988). Defendants should not be permitted to ask the jury to sit as an appellate body reviewing this Court’s legal conclusions. And these arguments are irrelevant to the claims at issue.

A. Argument That Chevron’s Section 1782 Actions Were Improper Should Be Precluded

Defendants claim Chevron committed fraud when it sought Section 1782 discovery from numerous courts regarding Defendants’ ghostwriting of the Cabrera Report by not disclosing that Chevron had also had *ex parte* contact with Ecuadorian court-appointed experts. Dkt. 732 at 100-03. This Court has previously rejected these allegations as (1) lacking the necessary relation to the equitable relief that Chevron sought, (2) being demonstrably false, and (3) being insufficiently pleaded. *Salazar*, 2011 WL 3628843, at *8-9, 12-14. Furthermore, Defendants had “a full and fair opportunity to litigate the issue” before those courts, *Parker v. Blauvelt Volunteer Fire Co.*, 93 N.Y.2d 343, 349 (1999) and, in some cases, did so argue—without success. *See*,

⁶ Available at <http://thechevronpit.blogspot.com/2013/08/chevron-nsa-of-corporate-world.html>.

e.g., In re Chevron Corp. (Berlinger), No. 10-mc-00001-LAK, Dkt. 15 (S.D.N.Y. Aug. 12, 2010), at 5. Whether Chevron was properly entitled to that discovery was determined by those courts, and Defendants are collaterally estopped from seeking a jury determination that those courts were defrauded by Chevron. *Burgos v. Hopkins*, 14 F.3d 787, 792 (2d Cir. 1994). Permitting Defendants to reargue those decisions would amount to asking the jury to perform an appellate review of the decisions made by numerous trial courts around the country. This is prejudicial and improper.⁷

B. Arguments that Chevron Acted Improperly in Seeking Data Relating to E-Mail Accounts Should Be Precluded

Chevron anticipates that Defendants will argue that Chevron's subpoenas seeking email subscriber information were improper. But this is a legal issue to be determined by judges, not a factual issue to be determined by the jury. Both the Northern District of New York (Judge Kaplan sitting by designation) and the Northern District of California have denied, in part, motions to quash Chevron's subpoenas. If Defendants disagree with those decisions, they may appeal. They should not be permitted to prejudice the jury with arguments that Chevron is "the NSA of the corporate world."⁸ Arguments or evidence regarding Chevron's legally permissible discovery efforts in this case do not have any tendency to make the existence of any fact that is of consequence to the determination of the action "more or less probable." Fed. R. Evid. 401

C. Chevron's Alleged Surveillance of Defendants Should Be Precluded

Defendants will likely argue that Chevron has "harassed" them by surveilling Donziger and other co-conspirators. In his counterclaims, Donziger argued that this constituted attempted

⁷ Defendants have asserted the defense of collateral estoppel in this case, and will likely argue that the jury should similarly not be permitted to second-guess the decisions of the Ecuadorian courts in the Lago Agrio Litigation. But Chevron did not have a "full and fair opportunity" to litigate the issues in the Ecuadorian Litigation due to, *inter alia*, Defendants' intimidation of the court, bribery of the court expert, and ghostwriting of the judgment.

⁸ The Chevron Pit, "Chevron: The NSA of the Corporate World?", available at <http://thechevronpit.blogspot.com/2013/08/chevron-nsa-of-corporate-world.html>.

extortion. Dkt. 643, ¶ 210. But this Court dismissed Donziger's counterclaim because New York law does not permit a cause of action for attempted extortion.⁹ Thus, the propriety of Chevron's surveillance is not relevant to any claim in this case. Defendants' arguments on this point serve no purpose but to inflame the jury, would be prejudicial, and should be prohibited.

III. This Court Should Prohibit Defendants From Making Arguments Based on Texaco's Statements in the *Aguinda* Litigation

Defendants may attempt to argue that Chevron should be bound by statements made by Texaco in the *Aguinda* litigation, including statements that the Ecuadorian judiciary was fair and impartial and that Texaco would consent to jurisdiction in Ecuador. As this Court has already ruled, statements made by Texaco cannot be attributed to Chevron because Chevron did not take on the obligations of Texaco. *Chevron Corp. v. Salazar*, No. 1:11-cv-03718, Dkt. 261 (S.D.N.Y. Aug. 31, 2011) at 10-14. As a result, statements made by Texaco are irrelevant to Chevron's claims in this action. While Defendants may disagree with this Court's decision, the decision is based on a determination of law, not fact, and thus Defendants may not question it to the jury. Statements made by Texaco are prejudicial and irrelevant, and should be precluded.

CONCLUSION

For the foregoing reasons, the Court should prohibit Defendants from offering at trial evidence, arguments, or interrogation regarding Chevron's conduct in the Lago Agrio Litigation, their purported justification for engaging in their actions based on Chevron's conduct, the litigation of this case and the parallel Section 1782 actions, or Texaco's statements in *Aguinda*.

Dated: September 8, 2013
New York, New York

Respectfully submitted,

⁹ This Court also has recognized that Chevron's investigators, when conducting surveillance, were acting under the direction of Chevron's attorneys and that their materials are protected work product. Dkt. 1276 at 2-5.

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Appendix A

Defendants' Exhibit Number	Date	Description	Bates range
4	3/3/2001	Vanity Fair Magazine Article Re Big Oil Jungle Law by William Langewiesche	LAP0000448- LAP0000471
6	4/28/2005	Letter of approval from Superintendencia de Companias	LAP0000569
7	6/24/2005	Letter from Interintelg S.A. naming Marino Fernandez president of the company.	LAP0000567
8	6/24/2005	Letter from Interintelg S.A. naming Diego Fernando Borja Sanchez General Manager of the company	LAP0000570
9	6/27/2005	Notarized document from Registro Mercantil de Quito by Dr. Raul Gaybor Secaira	LAP0000571
10	11/1/2005	Letter from the Ministry of National Defence to Julio Gonzalez	LAP0000721 – LAP0000722
11	11/5/2005	Letter from the National Congress of Ecuador(Congreso Nacional) to Oswaldo Jarvin	LAP0000719 -LAP0000720
14		Chain of Custody Record by Severn Trent Laboratories	LAP0000481 -LAP0000489
31	8/31/2009	Letter from T. Cullen (Jones Day) to Dr. Washington Pesantez Munoz	TO BE SUPPLIED
32	10/1/2009	Transcript 1 – Recorded conversation between Diego Borja & Santiago Escobar	LAP 0000073 – LAP0000088

33	10/1/2009	Transcript 2 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000089 – LAP0000104
34	10/1/2009	Transcript 3 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000105 – LAP0000119
35	10/1/2009	Transcript 4 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000120 – LAP0000135
36	10/1/2009	Transcript 5 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000136 – LAP0000148
37	10/1/2009	Transcript 6 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000149 – LAP0000163
38	10/1/2009	Transcript 7 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000164 – LAP0000178
39	10/1/2009	Transcript 8 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000179 – LAP0000192
40	10/1/2009	Transcript 9 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000193 – LAP0000194
41	10/1/2009	Transcript 10 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000195 – LAP0000212
42	10/1/2009	Transcript 11 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000213 – LAP0000226

43	10/1/2009	Transcript 12 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000227 – LAP0000236
44	10/1/2009	Transcript 13 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000237 – LAP0000238
45	10/1/2009	Transcript 14 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000239
46	10/1/2009	Transcript 15 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000240 – LAP0000241
47	10/1/2009	Transcript 16 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000242 – LAP0000243
48	10/1/2009	Transcript 17 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000244 – LAP0000245
49	10/1/2009	Transcript 18 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000246 – LAP0000257
50	10/1/2009	Transcript 19 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000258 – LAP0000269
51	10/5/2009	Transcript 20 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000270 – LAP0000280
52	10/7/2009	Transcript 21 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000281 – LAP0000293

53	10/7/2009	Transcript 22 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000294 – LAP0000305
54	10/13/2009	Transcript 23 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000306 – LAP0000314
55	10/15/2009	Transcript 24 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000315 – LAP0000365
56	10/18/2009	Transcript 25 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000366 – LAP0000403
57	10/31/2009	Transcript 26 – Recorded conversation between Diego Borja & Santiago Escobar	LAP0000404 – LAP0000443
59	10/26/2009	Letter from T. Cullen (Jones Day) to Dr. Diego Garcia Carrion re request for information	TO BE SUPPLIED
61	4/5/2010	Report of Investigation by Grant W. Fine, Esq. re recorded conversations & 25 pages of printouts of online chats between Diego Borja & Santiago Escobar	LAP0000008 – LAP0000015
62	4/5/2010	Informe de Investigacion por Grant W. Fine, Esq. Re conversaciones grabadas y 25 paginas de copias impresasde los chats en linea entre Diego Borja y Santiago Escobar.	LAP0000026 – LAP0000034
63	5/25/2010	Email from Kent S. Robertson to Jim Craig Re Info	CVX – RICO – 4755869

64	8/2/2010	The Atlantic magazine article Re A spy in the jungle by Mary Cuddehe	LAP0000472- LAP0000480
75	2/10/2012	Letter to Secretary-General Ban Ki-Moon from Enrique Bemales Ballesteros Re explain how Chevron's efforts to distort the BIT system to interfere with the rights of dozens of indigenous & farmer communities	LAP0000854 – LAP0000857
78	10/23/2012	Letter from Richard DeSanti (Chevron) to Erin Madden (Portland Harbor Trustee Council) Re Stratus & Portland Harbor Superfund Site	Dkt 768-2
80	11/5/2012	Letter from Richard DeSanti (Chevron) to Erin Madden (Portland Harbor Trustee Council) Re Stratus & Superfund Site	Dkt 768-3
81	11/12/2012	Letter from Richard DeSanti (Chevron) to Erin Madden (Portland Harbor Trustee Council) Re Stratus & Portland Harbor Superfund Site	Dkt 694-6

83	11/29/2012	Letter from Richard DeSanti (Chevron) to Erin Madden (Portland Harbor Trustee Council) Re Stratus & Portland Harbor Superfund	Dkt 768-6
90	3/22/2013	Settlement Agreement & Mutual Release filed by Chevron & the Stratus Parties	Dkt 934-1
103	5/10/2013	Witness Adolfo Callejas Ribadeneira Declaration of Donald Rafael Moncayo Jimenez Exhibit 6 # 19	CVX – RICO – 2495010
118	Undated	Message log of Diego & Canada	LAP0000041 – LAP0000071
357	Undated	CD of Excerpts from Audio Recordings of Diego Borja Sanchez filed with the court	Dkt. 152-1
358	Undated	Transcript of recorded conversation between Diego Borja & Santiago Escobar	Dkt. 152-2
359	9/10/2010	Memorandum for the issuance of a subpoena to Diego Borja for a deposition and production of documents	Dkt. 152-3
399	3/23/2010	Provincial Court of Justice of Sucumbios Order in Spanish with English translation	Dkt 153-11
401	3/30/2010	Filing by expert Jose Lopez with Provincial Court of Justice of Sucumbios in Spanish with English translation	Dkt. 153-13

402	4/7/2010	Filing by expert Jose Lopez with Provincial Court of Justice of Sucumbios in Spanish with English translation	Dkt. 153-14
403	4/14/2010	Filing by expert Jose Lopez with Provincial Court of Justice of Sucumbios in Spanish with relevant portions translated to English	Dkt. 153-15
404	6/3/2010	Filing by expert Marcelo Munoz with Provincial Court of Justice of Sucumbios in Spanish with English translation	Dkt. 153-16
405	10/29/2010	Filing by expert Marcelo Munoz with Provincial court of Justice of Sucumbios in Spanish with English translation	Dkt. 153-17
406	10/11/2010	Provincial Court of Justice of Sucumbios Order in Spanish with relevant portions translated to English	Dkt. 153-18
407	2010	The Atlantic article "A Spy in the Jungle" by Mary Cuddehe	Dkt. 153-19
514	Undated	CV of Diego Borja	ACH-DB000775- ACH-DB000780
515	Sept.07 - Aug. 09	Interintelg invoices	ACH-DB000517- ACH-DB000561
516	8/11/09-1/26/11	Chevron Invoices	ACH-DB000642- ACH-DB000666
517	Jan 3-13, 2011	Email chain between Babak Nikraves, Jeffrey Bernstein, and Bob McGrath re Final 2010 Borja amounts with attachment, "Borja Tax Calculation 1 13 11.xlsx"	BORJA00054-BORJA00064

518	8/23/2004	Texaco Invoice	Exhibit 5-Borja-3/15/11
519	8/17/2004	Shipping label	Exhibit 6-Borja-3/15/11
520	Nov. 04- Dec 06	STL Chain of custody records	Exhibit 7-Borja-3/15/11
521	Nov 05- Apr 06	Analytical report cover pages prepared for Groundwater Services; project manager Sara Portilla	Exhibit 8-Borja-3/15/11
522	6/29/2010	Arguedas, Cassman & Headley, LLP invoice, (partially redacted)	ACH-DB000867- ACH-DB000869
523	6/27/2009	Statement by Diego Borja	ACH-DB000009- ACH-DB000013
524	10/1/2009	Transcript 4 – Recorded conversation between Diego Borja & Santiago Escobar	ACH-D B000396-ACH-DB000411
525	10/31/2009	Transcript 26 – Recorded conversation between Diego Borja & Santiago Escobar	ACH-DB000094- ACH-DB000133
526	10/18/2009	Transcript 25 – Recorded conversation between Diego Borja & Santiago Escobar	ACH-DB000134- ACH-DB000171
527	5/11/2009	Recording 1 – Spanish Transcription and English Translation	Exhibit 14-Borja-3/15/11
528	5/15/2009	Recording 2 – Spanish transcription and English translation	Exhibit 15-Borja-3/15/11
529	6/5/2009	Recording 3 – Spanish transcription and English translation	Exhibit 16-Borja-3/15/11
530	6/22/2009	Recording 4 - Spanish transcription and English translation	Exhibit 17- Borja-3/15/11
531	10/16/2009	Statement by Diego Borja	Exhibit 18-Borja-3/15/11

532	6/12/2009	Financial Times article, "Chevron fights Ecuador pollution lawsuit" By Naomi Mapstone	Exhibit 19-Borja-3/15/11
533	5/23/2009	The Economist article "Ecuador and Chevron: The Hounding of an American Oil Company"	Exhibit 20-Borja-3/15/11
534	7/17/2009	Email to Diego Borja, subject Telefono with attachment "Detalle de Llamadas" (phone record)	ACH-AEO 00000001- ACH-AEO 00000008
535	7/17/2009	Email to Diego Borja, subject Telefono with attachment "Detalle de Llamadas"	ACH-AEO 00000009- ACH-AEO 00000029
536	7/25/2009	Email to Diego Borja, subject Patricio? with one attachment, photo	ACH-AEO 00000032- ACH-AEO_00000033
537	7/17/2009	Email to Diego Borja, subject Memoria with one attachment, photo	ACH-AEO 00000030- ACH-AEO_00000031
538	8/23/2009	Email to Diego Borja, subject Mas Fotos with five attachments, photos	ACH-AEO 00000082- ACH-AEO_00000100
539	8/24/2009	Email to Diego Borja, subject Mas Fotos with one attachment, photos	ACH-AEO 00000101- ACH-AEO_00000103
540	8/26/2009	Email to Diego Borja, copying Carlos Colorado, subject Vehiculo y otras fotos, with two attachments (photos)	ACH-AEO 00000107- ACH-AEO_00000111
541	10/1/2009	Transcript 6 – Recorded conversation between Diego Borja & Santiago Escobar	ACH-DB000368- ACH-DB000382
542	10/15/2009	Transcript 24 – Recorded conversation between Diego Borja & Santiago Escobar	ACH-DB000172- ACH-DB000222

543	10/1/2009	Transcript 11 - Recorded conversation between Diego Borja & Santiago Escobar	ACH-DB000305- ACH-DB000318
544	10/1/2009	Transcript 2 - Recorded conversation between Diego Borja & Santiago Escobar	ACH-DB000427- ACH-DB000442
545	10/1/2009	Transcript 3 - Recorded conversation between Diego Borja & Santiago Escobar	ACH-DB000412- ACH-DB000426
546	10/7/2009	Transcript 21 - Recorded conversation between Diego Borja & Santiago Escobar	ACH-DB000244- ACH-DB000256
547	10/1/2009	Transcript 5 – Recorded conversation between Diego Borja & Santiago Escobar	ACH-DB000383- ACH-DB000395
548	10/1/2009	Transcript 1 - Recorded conversation between Diego Borja & Santiago Escobar	ACH-DB000443- ACH-DB000458
549	10/1/2009	Transcript 19 - Recorded conversation between Diego Borja & Santiago Escobar	ACH-DB000268- ACH-DB000279
550	Undated	CV of Sara Regina Portilla Wanderley	ACHDB000926- ACHDB000930
551	8/20/2009	Email from Pablo E Meneses to borja@ctceq.com, copying Allen Verstuyft, Subject Contract for Lab Disposal; with attachment Contract between Texaco and Interintelg S.A.	PRIV-DB000939- PRIV-DB000980

552	7/13/09- 8/11/2009	Email chain beginning with email from Mark Sigler, to Sara McMillen, Alejandro DeJesus, CC'ing Rick Green, Allen Verstuyft, subject "Re: Close out of Sample management"	PRIV-DB000992-- PRIV-DB001262
553	8/7/09- 8/20/09	Email between Pablo Menses, Sara Portilla, eduardo.borja@ctceq.com, Allen Verstuyft and borjad@ctceq.com , subject Incineration, with two attachments	PRIV-DB000981- PRIV-DB000982
554	8/26/2009	Email from David B Moyer to Laurel Headley, Susan Bierbenbaum; CC'ing Mike Anderson, and John Cline, Subject Sara & Diego US entries, with one attachment, handwritten notes	PRIV-DB000257- PRIV-DB000258
555	9/15/2009	Email from John Cline to Cris Arguedas, CC'ing Mike Anderson and Laurel Headley (partially redacted)	ACHDB000939- ACHDB000940
556	8/11/2009	Borja employment application for Chevron	ACHDB000912- ACHDB000925
557	8/11/2009	Sara Portilla employment application for Chevron	ACHDB000898- ACHDB000911
558	8/27/09- 9/7/10	Email from Diego Borja to Allen Verstuyft, eduardo.borja@ctceq.com and uioec@me.com; subject Interintelg Incoices August 2009	ACHDB000001- ACHDB000002

559	8/11/09- 9/16/09	Email chain between Al Verstuyft, Pablo Meneses, Diego Borja, Alejandro DeJesus, Eduardo Borja and Sara McMillen, subject Revised Scope of Work	ACHDB000095- ACHDB000100
560	6/16/2010	Email from Mike Anderson to Caroline N. Mitchell, subject Names of persons	PRIV-DB000038- PRIVDB000039
561	10/7/2009	Email from John Cline to Cris Arguedas, Laurel Headley and Mike Anderson	PRIV-DB000142- PRIV- DB000143
562	10/1/2009	Transcript of recorded conversation between Diego Borja & Santiago Escobar; Spanish with English translation	Exhibit 49-Borja-3/15/11
563	8/30/2009	Email chain between Mike Anderson, Cris Arguedas, Laurel Headley, and John Cline, re Diego's phone, security, tomorrow	PRIV-DB000204- PRIV- DB000205
564	7/5/2009	Email from Wayne Hansen (gbltrdrwn@yahoo.com) to Diego Borja, subject "payment for services"	ACHDB000005- ACHDB000006
565	7/14/2009	Email from gbltrdrwn@yahoo.com to iri.pi@sbcglobal.net , CC'ing diegoborja@hotmail.com , subject "dooped????"	ACHDB000007
566	12/3/2010	Email from Wayne Hansen to eric@mason-ig.com, Cc'ing Charles Willson Harris	ACHDB000207

567	5/11/2009	Recording 1 Spanish Transcription and English Translation	Exhibit 54 – Borja3/17/11
568	5/15/2009	Recording 2, Spanish Transcription and English Translation	Exhibit 55 – Borja3/17/11
569	Apr-08	CIASA Corporate Position Statement	Exhibit 56 – Borja -3/17/11
570	5/22/2009	Email exchange between Pablo Fajardo and Steven Donziger, CC'ing Juan Pablo Saenz, Julio Prieto, Luis Yana and Luis Villacreces, subject Re: Confidential but necessary	Exhibit 57 – Borja -3/17/11
571	6/5/2009	Recording 3, Spanish Transcription and English Translation	Exhibit 58 -Borja -3/17/11
572	6/22/2009	Recording 4, Spanish Transcription and English Translation	Exhibit 59 Borja -3/17/11
573	6/22/2009	Email from Ruben Miranda to Diego Borja re account information	PGE00000172 Exhibit 60 Borja-3/17/11
574	6/22/2009	Email from Ruben Miranda to Diego Borja re account information	PGE00000173 Exhibit 61 Borja-3/17/11
575	6/23/2009	Email from Ruben Miranda to Diego Borja re more account information	PGE00000174 Exhibit 62 Borja-3/17/11
576	7/6/2009	Email from Ruben Miranda to Diego Borja, subject “asunto pendiente”	ACHDB000003
577	7/20/2009	Email from Ruben Miranda to Diego Borja, subject “muy preocupados”	ACHDB000004

578	8/20/2009	Email from Carlos Patricio Garcia to Diego Borja, subject "hola"	ACHDB000008
579	10/1/2009	Transcript 10-Recorded conversation between Diego Borja & Santiago Escobar	Exhibit 66 Borja 3/17/11
580	3/3/2010	Email exchange between Karen Hinton, Steven Donziger, Andrew Woods, and Laura Garr, subject Photographer, attachments photos	DONZ00029708- DONZ00029710
581	2011	"Photos of the House that Chevron Is Paying \$6,000 a Month to Hide Diego Borja" on website, Amazon Watch, Frente de Defensa de la Amazonia	Exhibit 68 Borja 3/17/11
582	Undated	Wanted photo of Diego Borja	Exhibit 69 Borja 3/17/11
585	2010	"A Spy in the Jungle" article by Mary Cuddehe	CVX-RIC0-5549371- CVX-RICO-5549374
586	5/31/2013	Declaration of Denis Collins	Dkt 1197-2
597	Undated	Photograph	Defendant's exhibit Moncayo 1-9/13/11
598	Undated	Photograph	Defendant's exhibit Moncayo 2-9/13/11
599	Undated	Photograph	Defendant's exhibit Moncayo 3-9/13/11
600	Undated	Photograph	Defendant's exhibit Moncayo 4-9/13/11
601	Undated	Photograph	Defendant's exhibit Moncayo 5-9/13/11
603	8/27/2010	Declaration of Robinson Yumbo Salazar	Dkt. 153-3, pages 36-40

604	8/27/2010	Declaration of Donald Rafael Moncayo Jimenez	Dkt. 153-3, pages 41-45
605	3/22/2013	Settlement Agreement and Mutual Release among Chevron, Stratus, Beltman and Maest	Dkt 934-1
623	5/26/2010	Anson Email	CVX-RICO-5592872
624	9/3/2010	Investigator 6 Email	CVX-RICO-5576943
625	9/3/2010	Fernando Reyes email	CVX-RICO-5576944
626	11/26/2010	Anson Email	CVX-RICO-5583251
627	11/26/2010	Investigator 6 Email	CVX-RICO-5583251
628	12/22/2010	Robertson email	CVX-RICO-4759981
629	2/15/2011	Fernando Reyes email	CVX-RICO-5575474
630	2/15/2011	Fernando Reyes email	CVX-RICO-5575474
631	3/3/2011	Fernando Reyes email	CVX-RICO-5577172
687	3/28/2006	Email from Ben Ortiz, Subject: Donzinger and Sacha Sur Video	CVX-RICO-4565128
696	2/12/2010	Anson search results re: Zambrano	CVX-RICO-5524194 - CVX-RICO-5524264
701	6/4/2010	Anson report on Plaintiff's protest of CVX	CVX-RICO-5592733
702	8/2/2010	Anson email to Neuman re: M. Cuddehe article (email redacted)	CVX-RICO-5549371-CVX- RICO-5549374
703	8/17/2010	Redacted email w/ Amy Goodman interview w/Cuddehe	CVX-RICO-5516189-CVX- RICO-5516208

707	8/15/2011	The Red Line: Chevron's secret wars	CVX-RICO-5493266
708	3/17/2011	Kroll LexisNexis search for Donziger	CVX-RICO-5918345-CVX-RICO-5918390
709	5/1/2012	Kroll email re: phone call tracking	CVX-RICO-5566501-CVX_RICO_5566503
756	2/22/2006	Email from S. Donziger Subject: Russell report messaging	CVX-RICO-2369384-CVX-RICO-2369385
815	3/28/2006	Email from B. Ortiz Subject: Donziger and Sacha Sur Video	CVX-RICO-4565126-CVX-RICO-4565128
921	2/18/2013	Transcript of Proceedings (Nov. 10, 2010), In re Application of the Republic of Ecuador re Diego Borja, No. C 10-00112 (N.D. Cal.)	Ex R-197 to Track 2 Counter-Memorial
927	2/8/2013	Chevron Paid \$2.2 Million To Man Who Threatened To Expose Company's Corruption in Ecuador, BCLC	Ex R-471 to Track 2 Counter-Memorial
967	2/18/2013	Excerpt from Lago Agrio Record (Chevron's letter to the Court (Oct. 18, 2005) requesting the suspension of the judicial inspection in El Guanta).	Ex R-475 to Track 2 Counter-Memorial
968	2/18/2013	Excerpt from Lago Agrio Record (Intelligence Report signed by Major Arturo Velasco (Oct. 18, 2005))	Ex R-477 to Track 2 Counter-Memorial
969	2/18/2013	Excerpt from Lago Agrio Record (Court Order (Oct. 18, 2005))	Ex R-478 to Track 2 Counter-Memorial

970	2/18/2013	Excerpt from Lago Agrio Record (Report signed by Sr. Coronel Miguel Fuertes Ruiz (Feb. 8, 2006))	Ex R-479 to Track 2 Counter-Memorial
971	2/18/2013	Chevron PI Results from Guanta Production Station (Sept. 28, 2005)	Ex R-541 to Track 2 Counter-Memorial
972	2/18/2013	Excerpt from Guanta 7 JI (April 5, 2006)	Ex R-824 to Track 2 Counter-Memorial
973	2/18/2013	Excerpt from Guanta 6 JI (April 6, 2006).	Ex R-825 to Track 2 Counter-Memorial
1034	2/18/2013	Email chain between Borja and Verstuf regarding August 2009 Interintel invoices	Ex R-320 to Track 2 Counter-Memorial
1052	9/3/2009	Kent Robertson Email	CVX-RICO-4369595
1053	9/7/2009	Chris Gidez Email	CVX-RICO-4865687
1054	6/9/2010	Transcript of Escobar Briefing at Ciespal	CVX-RICO-4364224
1055	11/24/2010	Nunez Interview	CVX-RICO-4381143
1056	8/13/2009	Borja Chevron Payments to Borja	CVX-RICO-000642
1057	8/31/2009	Borja Attorney Bills	CVX-RICO-0000343
1058		Borja Travel and Living Expenses	CVX-RICO-6014666
1059	28-Aug	Borja Travel Expenses	CVX-RICO-0000476
1077	10/29/2010	Letter to Lago Agrio Court filed by Marcelo Munoz	